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TREATISE,

S H E W I N G

How Useful, Safe, Reasonable and
Beneficial, the

Inrolling and Registering

Of all Conveyances of Lands may be to the
Inhabitants of this

K I N G D O M.

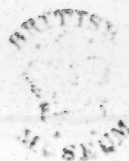
Written by the Honourable

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Sometime Lord Chief-Justice of His Majesty's Court of King's Bench.

The Second Edition.

L O N D O N,

Printed for *Mat. Wotton*, at the *Three Daggers* near the *Inner-
Temple-Gate* in *Fleetstreet*. MDCCX.



A

TREATISE

Concerning

Inrollment of DEEDS.

IN the Business in Agitation touching Inrolling of Deeds, These things considerable.

1. The Mischief propounded, to be remedied.

2. The Remedy to be applied.

The Mischiefs at present to be remedied are,

1. The great Deceit committed by Persons by secret Judgments, Mortgages, Conveyances, and Settlements; whereby Purchasers are oftentimes deceived, and Creditors defeated. And this the more considerable in *England*, because indeed the great Inland-Trade we have, is the Trade of Buying and Selling of Lands, and the great Security that is ordinarily given to Creditors and Lenders of Money is by Security of Land.

2. The Multitude of chargeable and difficult Suits in Law, occasioned by Preconveyances, secret Mortgages and other Incumbrances, which proba-

B

bly

bly would be avoided and lessened, if all Mens Estates lay open to the View of others.

The Remedy propounded is, by an Office of Inrollment, or Registry of Conveyances.

In this, as in all other Applications of Remedies to any Mischiefs, these things must be considered.

1. How and by what means the Remedy may be commensurate to the Mischief?

2. Whether the Remedy or the Application thereof in such manner as it may be commensurate to the Mischief, be feasible or not?

3. Admit it be, Then what Inconveniencies may otherwise be introduced by the Application of the Remedy.

1. If the Inconveniencies introduced by it be greater than the Benefit it gives, the Remedy is to be rejected.

2. If the Inconveniencies thereby occasioned be over-weighed by the Benefit, Then it may be Entertained.

But with due Consideration or Provision that those Inconveniencies introduced by the Remedy, may with as much Prudence as may be, be obviated, prevented, removed, or very much allayed by suitable Provisions against them.

The first of these Considerations, namely the Application of the Remedy in a due Commensurateness, to the Mischief, must needs be by taking Care that there be no Room or Inlet for any such Deceit by secret Conveyances or Incumbrances of Estates: *For if any one Leak be left unstopt, the Vessel will sink as well as if more were open.* And if any one Device be left unprovided for, thither will fraudulent Persons betake

betake themselves, and get out of the Remedy intended.

Therefore,

1. All Judgments, Statutes, and Recognizances, must lye open to view, either by Inrolling or Registring them, because those charge Lands.
2. All Trusts touching Estates must be Inrolled or Registred, for now by the Power of Courts of Equity, these do charge Lands, and sometimes in the hands of the Fourth or Fifth Purchasor, if there be proof of notice. Trusts.
3. All Mortgages, as well forfeited as not forfeited, Defeazances in Nature of Mortgages, must be Inrolled.
4. All Powers of Revocation and limiting of new Uses, Powers of Letting or Charging Estates, must be Registred or Inrolled; for these may alter the Title of Lands, and are sometimes contained in distinct Deeds, from the Deed whereby the Estate is settled.
5. All Declarations of Uses and Trusts upon Fines, Recoveries, and other Assurances.
6. All Grants of Rents, Commons, Profits, all Conditions and Reservations of Rents.
7. All Leases, for Years or Lives, made by any Person either with Rent, or without it.

8. In brief, All Feoffments, Grants, Releases, Confirmations, Wills, Forfeitures, Escheats, Commons, or whatsoever other Estate or Interest in them.

For if any of these be not Inrolled or Registered, or some way rendred open to the view of every Person, a Man may be cheated or deceived. And what is odds, whether a Man be deceived by a secret Mortgage or Judgment? or by a secret Lease for Lives or Years, or by a secret Settlement, or Devise or Will? And all these must be secret to him that hath no ready means to discover them: The Remedy whereof is designed in this publick Registry.

And yet further, If the Remedy be intended as large as the Disease, this Registry must not only look forward, but it must look backward, (*viz.*) That all Estates and Incumbrances now in Being, as well as those that shall be hereafter, must be laid open to the View, otherwise the Provision is not commensurate, there being in all probability a Stock of latent Incumbrances and Charges upon Lands, which may serve at least to deceive and cheat this present Age, and the next also. Therefore unless there be some Notification of present Incumbrances as well as future, we but lay up a Security, that it may be of use an Hundred Years hence, and leave the present and intervening Ages in as bad, if not worse Condition, than we find them.

Therefore a Remedy commensurate to the Mischief must needs provide for the Registering all Estates

states and Interests, and Charges of Lands, and that as well for the time past, as time to come ; otherwise the Plaister is too narrow for the Sore.

2. The second Consideration is, Whether this be possible to be done? Indeed it is a fine thing in the Theory and Speculation, and a Man that fixeth his Thoughts upon the good that might come by such an Expedient, without troubling himself with the Difficulties that lie in the way to it, may drive it on very earnestly ; but he that shall consider the Difficulty of it, will easily see that it is but a Notion and Speculation, and cannot be effected or reduced into practice, at least not without immense Confusion.

The Difficulties that attend this Design, are either such as relate to the Inrolling of Estates now in Being ; or secondly, The Inrolling of Estates hereafter to made or granted ; or Thirdly, Such Difficulties as relate to both.

1. The Difficulties that attend the Inrolling of Estates now in Being, or past, these seem insuperable. In order to the discovery hereof, we must suppose, that either every Man shall be at Liberty to Inroll or Register his Estate, or it must be under this Penalty, that if he fail herein, he must lose his Estate. If we suppose the former, then every Man is still at Liberty, as he was before, and nothing is effected by it.

Liberty.
Penalty.

If the Latter, (viz) That he shall lose if he do not Inroll the Estate he hath, or which is all one, it shall be in the power of him that Inrolls a Subsequent

quent Title to make the former, not Inrolled, void; Then either that Inrollment or Registry must be barely of his Claim, or some Abstract of his Title; or he must Inroll the Tenor of the Deed, or Evidence by which he Claims.

Mistakes.

Abstracts.

Deed at large.

Claims entered.

If we shall suppose the former, then these things will be Considerable. *First*, What if he doth in some things mistake his Claim? It may be, he thinks he has an Estate in Fee-Simple, when it is but in Tail, It may be an Estate Absolute, when it is Conditional; Certainly he that Claims by an Abstract, had need of a very good Counsel at his Elbow, to give him sound and uncontrollable Advice, in drawing it up; otherwise he that hath a good Title may lose it for want of a right Abstract of his Title by which he Claims. Surely therefore every Man that hath a good Title, and can possibly come by the Deed or Evidence by which he Claims it, will Inroll his Deed at large, for fear he should omit any thing essential to his Title. *Secondly*, Or else it is intended, that though he mistake his Title, yet if he enter as much as he thinks fit, it shall be sufficient to preserve his Estate. And if this be intended, the whole design of Registering and Inrolling will End in a publick Deceit and Insecurity, when perchance in the Event, the Estate or Interest Claimed, doth materially and substantially vary from what is Registered. *Thirdly*, Again, if such an uncertain Claim shall be allowed, not made good by Deeds or Evidences, this Office will breed more Disturbance in many Estates, than any imaginable Deceits or Frauds besides can equal: For any Man shall at a venture make what Claims, and set

set up what Pretences he pleases to any Mans Estate in *England*, and shall be admitted to Enrol them in the Registry, and the Person injured shall be either remediless, or driven to more Suits and Expences, to vindicate his Title, than now he is necessitated unto, to discover a Fraud in a Seller.

Suits increased.

It remains therefore necessary, that whosoever will Inrole any thing in being, he must produce some Authentick Deed, or other Record, to warrant what he would have Inrolled, and then there must be Inrolled at least so much of the Deed, or Evidence that concerns, *First*, The Parties, Grantor and Grantee. *Secondly*, The things Granted. *Thirdly*, The Estate Granted. *Fourthly*, All those parts of the Deed, or Evidence, that have any Influence upon the Estate: as Rent reserved, Conditions, Powers of Revocation, of Alteration, of Leasing, the Trust, &c. and those other things that have an Influence upon the Estate; and without all this done and truly done, the Purchaser or Lender, is as much in the Dark as before, and Cheated under the Credit of a Publick Office Erected to prevent it.

This being the State of the Business in relation to Inrolling of things past; there follows next, those Difficulties that render the Design either Impossible or Fruitless.

1. Many Persons that have Titles, have them by Livery without Deed, or cannot bring the Deed to the Office to be Registred, or Inrolled, because the Deed it self is not, nor by Law cannot be in their Custody

Custody, at least *de facto* is not in their Custody :
 as they that Claim Remainders where the Custody
 of the Deed belongs to others, those that Claim by
 Wills, either concealed, or in the Hands of Executors,
 and many have lost their Deeds in the late Trou-
 bles, and to compel Possessors, especially Purchasers of
 Lands, to discover the Deeds, which possibly they have
 for the Security of their Title, or to discover the
 defects of their own Assurances to make others Mens
 Title appear ; and this under a Penalty or Action
 were an unreasonable thing, and would create a gene-
 ral insecurity of Purchasers.

Mean Con-
 veyances.

If (44. *Eliz.*) *A.* Conveyed his Land to *B.* and
 12. *Ja.* 1. *B.* Conveyed it to *C.* and 3. *Car.*
 1. *C.* conveyed it to *D.* and 20. *Ca.* 2. *D.* Con-
 veyed it to *E.* must all these Conveyances be In-
 rolled or only the last ? If all must be Inrolled, then if
 any one Mans Conveyance be omitted, suppose it
 from *A.* to *B.* then the omission of the Inrollment
 thereof, will give a Title to *A.* or his Heir, to make
 a Claim to this Land, if only that from the last Seller,
 then is the Purchaser in the Dark still, what Estates
 were in the antecedent Owners, and how Derived,
 and so the Design ineffectual to the end proposed.

3. If all the mean Conveyances of Mens Estate,
 should be Inrolled, *Westminster-Hall* would not hold
 the Inrollments, and the Charge thereof would be
 above two Millions of Money ; nay, if we should sup-
 pose the present Estates of the present Owners of
 Lands in any one considerable County, were to be
 Inrolled, the Charge would be intollerable, and the
 Bulk

Bulk it self would be utterly useles : Suppose in *London*, 20000. Houses, and each House to have but two Titles, that is, that of the Owners of the Inheritance, and that of the present Lessee, (tho' some have many more concurrent and coincident Titles to recompence those that may have possibly less) this would bring to the Inrollment Office 40000. Deeds, the Inrollment of every Deed at least 10 s. would produce 20000 Pound and about 200. Volumes of Velum Books, which would take up the Imployment of many Clerks, and when the work was done, the Volumes too vast and numerous to be made use of ; and what would be done then with the many Leases of *Western Mannors*, which yet have many under Titles derived under them?

4. But how shall these Deeds come to be Inrolled? he that made them perchance is Dead, or at least will not come to acknowledge it, and if every Man that brings a Deed should have it Inrolled without acknowledging it by him that made it, any forged Deed may be Inrolled, and Men in a little while, may lose their Estates, by the Countenance that a forged Deed shall receive, by being Inrolled among the publick Records of the Office ; for the Officer can never examine the Truth or Reality of the Deed, or if he could, it would not be reasonable that Mens Estates should depend upon the Judgment of any Ignorant Clerk, or Officer.

2. As for the Inrollment of all Conveyances and Deeds for the time to come, this labours under great Difficulties also, though not so many and so

Acknowledg-
ment.

great, as the Inrollment of things past ; because here the Persons that make the Deeds may possibly come to acknowledge them before some Persons publickly intrusted, as two Justices of the Peace, or the Master of the Office ; yet this has also great Difficulties.

Wills.

1. Many Mens Estates are by Will ; where the Proprietors of the Estates have not the Custody of the Will to produce.
2. How shall the Officer before whom the Will is produced, if it be produced, know whether the Will be true or forced, or revoked ? since the Devisor is now Dead, that made it ; and surely it can't be intended that every Man that makes his Will of Land shall Inroll it in his Life-time, since he may often change, revoke, and alter it.

Trusts.

See Act of
Fraud and
Perjuries.

3. Although it is a very great Inconvenience and fit to be remedied by Act of Parliament, that many times in Courts of Equity, Trusts are averred without and contrary to Deed, yet certainly so long as that Usage is allowed, all Trusts of Estates cannot be Inrolled because they be oftentimes in Averment and Proof without Writing, and so do oftentimes the uses of Fines, which as yet have influence into the Estates of most Men, and yet as the Law now stands are averrable without Deed.
4. The Charge of Inrollment of all Incumbrances and Estates of Land, even for the future will,
in

in the space of few Years, grow vast, and the Registry or Inrollment-Office will grow so Voluminary in seven or eight years in most Countries, that they will become useless and unmanageable to the Ends propounded, as would easily appear upon a *Medium* or Estimate of the Estates, Conveyances, Leases, Judgments, and other Incumbrances that grow up in one County, in one Year.

3. These Difficulties that are common both to Inrollment of things past, and to come, are principally these :

1. The Place where this Registry shall be kept, if in *London*; all Men must come up thither to Inroll their Deeds, which will be intollerable : If in the Countries where the Lands lye, then *London* being the Great Center of Buying and Selling, a Man that deals here at *London*, must be forced to send into *Cornwall* or *Northumberland*, to search the Registry there. Ubi.

Again, What shall be done, where one Conveyance comprizeth Lands in several Counties? or where a Man, having Lands in several Counties, Acknowledgeth a Judgment or Statute, shall this be Registered in every County? And if it shall, how shall the Commissioners know all the Counties where his Land lieth? and how shall the Deed in one Several Counties.

County be transmitted to another, or must it be acknowledged in every several County, and by the Party there Inrolled?

Judgments.
&c.

2. Again, How shall Judgments that Charge Lands or Statutes, Merchant, or the Staple, be authentickly Registred in every County? and what Warrant shall be sufficient for it, especially since there be so many Courts of Record in *England*, wherein Judgments given, will charge Lands in other Counties, as in the Courts at *Westminster*, the Courts of Grand-Sessions, *&c.*

So that as to Estates and Incumbrances already before this time created, the propounded Register seems utterly impossible and unpractical: As to Estates and Incumbrances for the time to come, tho' more practical, yet very difficult, cumbersome and chargeable, and scarce applicable to the End designed; if it be compulsory upon all to do it.

Compul-
 sion.

3. As to the Inconveniencies; I shall mention some, and of those, some applicable to both Proposals, both of Registering things past, and to come, tho' far greater in relation to the time past.

1. Whereas many Men perchance, for many years have quietly enjoyed their Estates, although perchance some little Defects there might be in their Evidences, as for want of some Ceremonies, Circumstances or Words: Now by Inrolling of these Deeds,
 all

these Defects will be exposed to the View, Observation and Search, and Discovery of others; whereby busie Projectors will be picking holes in the Titles and Estates of many Men, which are now quiet and at rest. This will discover the Flaws and Defects of all Mens Assurances, and multiply Suits and Questions. Suits multiplied.

2. Whereas it many times moves great Distempers in Families, when Children shall see and know how their Parents dispose their Estates among them in their Life-time. This Course will force the Father to Enroll all his Settlements, whereby all his Intentions will be discovered in his Life-time, which may breed great Unquietness and Animosity; or otherwise, it will put it in the Power of the Heir if the Deed be not Inrolled, to sell the Land, and so defeat all his younger Brothers and Sisters.

3. Whereas some are desirous that the Greatness of their Estates may not be known, to expose them to Envy and Detraction; Others are desirous that the Weakness of their Estates may not be known, to expose them to Contempt or Question. This Registering of Men's Estates and Interests, disappoints both, even where there is no occasion for a Purchaser to be concerned, nor any Design of Fraud in either.

4. It is worth Enquiry, whether the Prospect of this Business is not so much to remedy old Inconveniencies, as to introduce new, by Erection of new Offices and new Officers, Salaries, Fees, which will

Charges
and Mis-
chiefs.

will bring in an excessive Charge upon the People, and is always accompanied with further Exactions; sometimes for Expedition, sometimes for preference of one Man's Inrollment before another, which will certainly be found together with great Delays, especially where the Business of the Office is like to be very great.

Against
Compul-
sion.

Upon the whole matter, I think that the Compulsion of every Man to Inroll or Register his Writings and Evidences of his Land, whether past, or future, under any Penalty, is unpractical, and utterly inconvenient and dangerous to Men's Estates.

And now if it be Objected, That these Difficulties and Inconveniencies be but imaginable, or easily superable by prudent Provisions, and all the Inconveniencies objected, may be in like manner remedied, since we daily see in Copyhold Mannors, and in some great Precincts, as for Instance, in *Taunton* Mannor, all Men's Estates are Inrolled, or so Registered, that it prevents all possible Fraud by Preconveyances, and hath brought great Quiet and Security to Men's Estates, without the least Sence of any of the objected Difficulties or Inconveniencies.

I Answer.

1. That the Cases are not alike Inrollments of Copies of Court-Roll, or within a private Mannor serves but a small Precinct, but the thing in proposal intended for a great Kingdo m.

2. There

2. There it hath been long since begun, and so hath been carryed down in Succession of Time, and rendered Familiar, and Custom and Usage hath accommodated the Practice: But if it were now to be begun, and take in, especially all former Estates, it would be very difficult to be put in ure, even in a considerable Mannor or Burrough; much more in a great Kingdom.

It is true, That if all Conveyances of Lands were for the time to come Registred, it would in process of time do much good, and prevent many Suits and Frauds, tho' perchance the present Age may not find the Advantage of it. And certainly, it was the great Design of the Statute of the 27. H. 8. 27. H. 8. of Inrollments to have brought up that Method of Assurances, and had it been pursued, it had before this time been brought to great Perfection, and done much of that Good which is now intended by it.

But to make the Design at this day Practical and Useful, these things must be observed.

1. In reference to Deeds of all sorts.
2. In reference to Wills.
3. In reference to Judgments, Statutes and Recognizances.

1. There-

1. Therefore in relation to Deeds, these things are necessary to make the Design Practical and Useful.

Act of
Frauds.

1. That it be Enacted that no Estate pass from Man to Man (by Act executed in Lifetime, other than by last Will) for above Years, without Deed

2. That no Use or Trust of any Estate be raised, but by Deed expressing the same.

Words to
mean more.

3. That to prevent the extream length of Covenants in Deeds, there be thought of certain Words that may carry in them the Strength of Covenants or Warranty's; As for Instance, [*Dedi*, or *Give*,] to include a Warrantry and Covenant against all Men, and also for further Assurance, [*Grant*] to include a Warranty and Covenant against the Party, and all Claiming under him, and for further Assurance within Seven Years, [*Deliver*] to include a Warranty and Covenant against the Party and his Ancestors, and all Claiming under that, and for further Assurance, within seven Years; and divers Instances of this kind might be contrived by short Words to include Large Sentences: Thus it was done by the Statute of *Bigamis*, and this would shorten Deeds, and abridge their Charge of Enrolling.

Stat. of *Bi-
gamis*.

4. That

4. That all Deeds to be Inrolled be Acknowledged before a Judge of *Westminster-Hall*, Master of the Chancery, as now; or before two Justices of the Peace in the County, and they to have Power to examine Feme Coverts to prevent the Charge of Travel, and of Commissions to take Acknowledgments. Feme Coverts.

5. That all such Deeds as are to be Inrolled, be Inrolled either in the Courts at *Westminster*, or in the Counties, before the Clerk of the Peace of that County where the Landlies, or in Cities, according to the Stat. of 27. H. 8.

This will prevent the needless multiplying of new Offices, and the gaping of People after them, and perform the Business according to the known and settled Usage already Established by Law, without introducing Novelties more than need. Offices.

6. That if the Land lye in several Counties, the Inrollment at the Courts at *Westminster* to suffice: If Inrolled in one County, it may be sufficient for the rest, only a short Abstract or Certificate thereof to be sent at the desire of the Party to the Clerk of the Peace, of the other Counties, subscribed by him, to be Entred with the Clerk of the Peace of the other Counties where the Land lye. Inrollment at Westminster.

Time
when.

7. That no Deed be Inrolled after Months,
from the time of the Caption.

Relations.

8. That the Relation of the Inrollment of
Deeds to bind or prevent mean Incumbran-
brances, relate only to the time of the Cap-
tion at farthest.

Pecuniary
Penalty.

9. That twice in every Year at least , there
be transmitted from the Office of Inrollments
in Chancery, Abstracts or Certificates of In-
rollments to the several Clerks of the Peace of
those respective Counties where the Lands
lie, under Seal, and so from the Clerks of
the Peace of the several Counties, to the
Clerk of the Inrollments in Chancery, that
they may be reciprocally Entred : This to
be done under a pecuniary Penalty, but not
to invalid the Inrollments.

Fees.

10. That some settled easie Fees may be Esta-
blished by Act of Parliament, for the Cap-
tion, Inrollment, and Certificates.

11. That no Penalty lye upon any Party for not
Inrolling his Deeds, farther then by Law is
Established already, but only by Act of Par-
liament, a considerable Advantage to him that
Inrolls. This will invite Men to do it volun-
tarily , and in a little time will carry the
greatest Course of Assurance in this Method,
without any Grievance or Inconvenience.

12. That

12. That the Advantages propounded be such as these :

1. That whatsoever Estate, Reversion, Remainder, or Contingent Remainder, or Uses, a Man may barr, by Fine or Common Recovery, Common with single or double Voucher, he may barr by a Recoveries, Deed enrolled; *except as to the Point of Nonclames*, and Fines. Provision for Infants and Ideots.

2. That a Deed Inrolled may supply the defect of Livery and Seisin, and Attournment: But not as to forfeiture of the Estate of him that makes it. This is partly done already by Law.

3. That Uses may be as well created and executed Uses on upon a Deed Inrolled, as upon a Fine or Feoffment, Deed enrolled or Release. Deed en- roll'd.

It is True, That by those Advantages, and some others that may be added, most of the Assurances in *England* will run this way; and thereby,

1. The Offices of Clerks of the Peace, and Inrollments in Chancery, will grow to be great and beneficial Offices.

2. The Offices relating to Fines and Recoveries, will sink very Low, as the Prothonotaries, the Chyrographers, *Custos brevium*, Clerk of the King's Silver, Clerk of the Inrollments,

and the Practice of many Clerks that usually deal in Fines and Recoveries.

3. The King's Fines upon Originals, and the Commissioners for the Composition of Post-Fines, will decay in time; which will be a Loss to the King; The Keeper of the Great Seal, the Master of the Rolls, and Curfitors, and Lords of Liberties.

But to this I say,

1. The swelling of these Offices may be corrected to the publick Benefit, by making the Rates of their Fees lower.

Common-Pleas.

2. The Offices, that will by this means be impaired, may be considered, if it be thought fit, by some Allowances out of the Offices of Inrolments, though the Officers of the Court of Wards found no such Provision for them: And if some Counties were allotted to the Common-Pleas for Inrollments, that might easily be applied, and distributed so as to countervail the Loss.

3. The Loss of Fines, and Post-Fines, may be abundantly recompenced by a very small Allowance upon every Deed inrolled; and yet the Subject be a Gainer by it.

And as these small Difficulties may be easily recovered, so these great Conveniencies would ensue.

1. No

1. No Man would be compelled to Inroll his Deeds, and yet every Man might take the Advantage of it that pleased.
2. The old Course of Fines and Recoveries, not taken away, but left for every Man to use that would, though a cheaper and readier Course of Assurances be substituted.
3. Whereas now no Fine, or Recovery can be had in Vacation time, whereby many Men, Vacation before they can settle their Lands by this time. means, Entailes and Feme Coverts may be barred, and settle their Estates as they have occasion.
4. It would take away the Charges of Travel to *London*, by Persons living remote; the Charges of Commissions, *Dedimus potestatem*, Warrants of Attorney, and all those incident Charges of Fines and Recoveries: So that a Man that is necessitated to sell his Land, though it be but an Acre, cannot do it, by Fine or Recovery, under Fifty Shillings, may be able, by this means, to perfect his Assurance for Ten Shillings. Cheapness.
5. It will, in few Years, carry the whole Track and Current of Assurances in a way that may be open to all Men, and yet without Compulsion to any.

6. It

6. It will prevent those many Defects in Assurances by Fines and Recovery ; which consisting of so many Parts, and passing through so many Hands, are subject oftentimes to be Reversed : It may be, for the Loss or Mistake of an Original Writ, or some Defect. And thus far for Inrolling of Deeds.

27. *Eliz.* 2 Touching Judgments and Statutes. The Statute of 27. *Eliz.* hath provided in a good Measure for the Inrolling of Statutes : But as for Judgments it is a Business of great difficulty how to Inroll them especially because it cannot

1. Be readily known where the Party lives, or where his Land lies by the Ministers of that Court where the Judgment is given, and so it will be difficult to transmit the same into the Countries where the Land lies.
2. If that were all known, yet it might be hard that a Copy of a Judgment, in Paper, should be a sufficient Warrant to enter it with the Clerk of the Peace in the County.

But all the way that seems to be practical in this kind, were for the Clerks of the several great Courts, to extract out of the Rolls, the Abstracts of the Recognizances and Judgments, for four or five Years past, or more ; and also for the time to come, as they are entred, and to digest them in Alphabet, according to the Surname of him that acknowledgeth them,

them, &c. and so to preserve them for publick Inspection, this might be easily done, and a Salary or Fee settled by Act of Parliament for the respective Offices employed therein. Only there are these Inconveniences which must be remedied.

1. The Retrospect of a Judgment to the beginning of a Term, though acknowledged, it may be, long after.
2. The late Inrollment of Judgments confessed, so that there is little appears of Record, but only in private Remembrancers.
3. The keeping of Paper Recognizances acknowledged in Courts for many Days and some Months, without Inrolling them as they ought, and yet by relation to the time of the Caption, many times over-reach Men's Purchases and Securities: These might be remedied by the Orders of several Courts without an Act of Parliament, if strictly enjoined and observed, though a short Act would easily make the Remedy universal.
3. *And lastly*, Touching Wills, the Difficulty will be very great to put them into better Order, than they are at present, abating some few things.

For

For the Devisor himself must not Inroll his Will, for the Reasons before given, and especially for that it is alterable every Hour, and many times made in Extremity, when there can be no authentick Officer to Receive or Attest it.

And when he is Dead, the Will comes to the Hands of the Executors, and it may be controvertible, and if the Entry then of it by an Executor, or one that pretends to it, should render it Authentick, it may prejudice the Just Right of others.

And on the other side, oftentimes the Devisee of Lands hath not the Custody of the Will, and it would be unreasonable that the Executor's Neglect should prejudice the Devisee's Interest.

I know not how the Case of Wills can be made much safer or better than it is, at least unless the Insinuation thereof were under the Examination of Temporal Courts; but that perchance would be thought too great a Charge.

Only it were well, if some greater Solemnity were required by Law in Wills, whereby Lands are devised; for ever since the Stat. of 34. H. 8. more Questions, not only of Law, touching the Construction of Wills,

Wills, but also of Fact, arise, than in any five General Titles or Concerns of Lands besides. As, Whether a Will were made or not? Whether revoked or not? Whether the Party that made it were of a disposing Memory, or not? which multiplies Suits, and makes great Uncertainties.

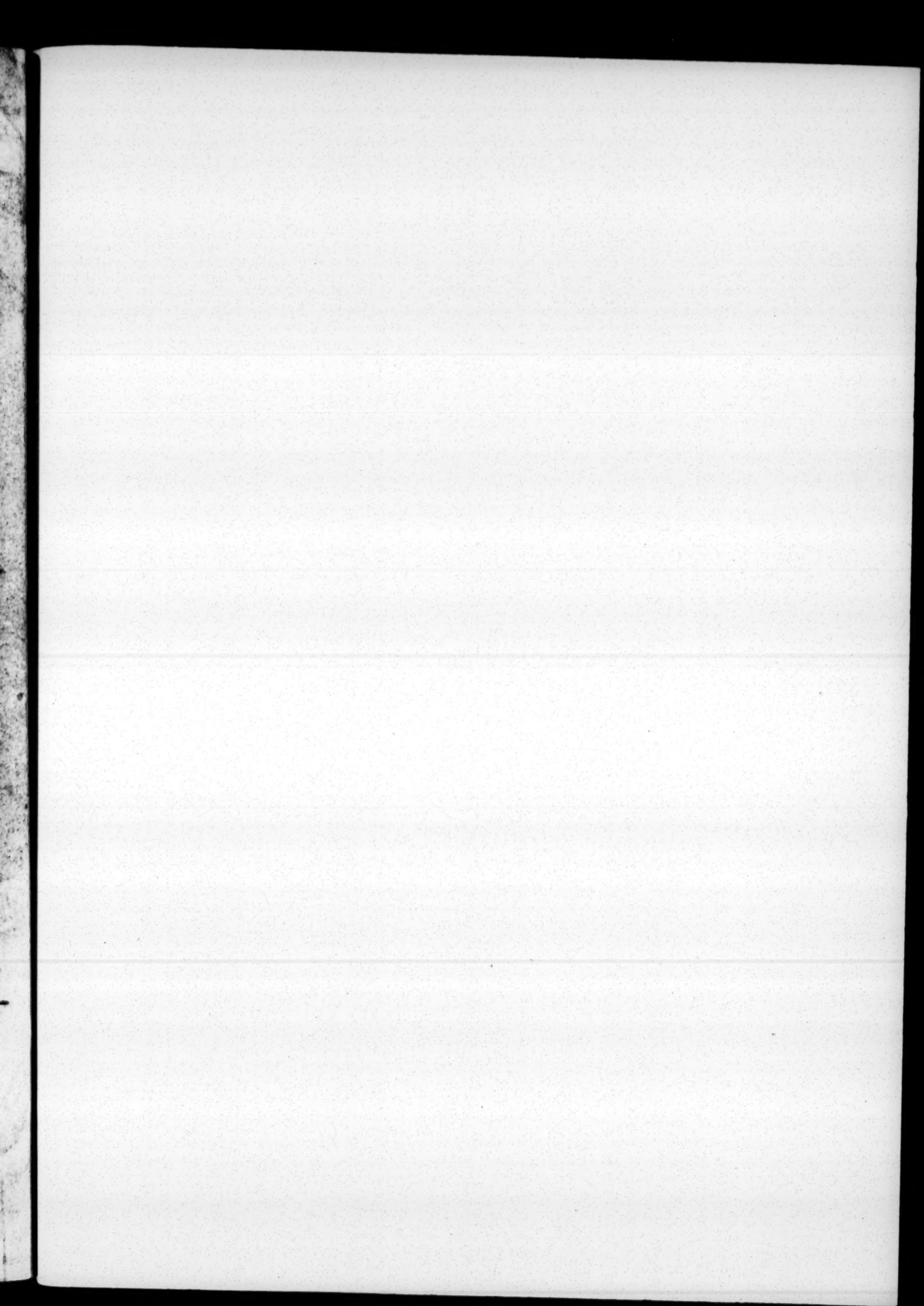
But an Act may be necessary to prefix a Time and Order for Claims to burned Houses in *London*, and a Judicatory settled for the determining thereof summarily; because otherwise, possibly Latent Incumbrances may arise upon those that have been at great Charges in Building. *London Burnt.*

But it were far better, that there might be an Act to quiet the Enjoyment of those that have built according to the Decrees, and under the Rules already decreed, because their Charge hath made the Improvement, and saved it from the Forfeiture which would otherwise have happened; therefore no Reason their Possession should be disturbed. And besides, all Persons that had any pretence of Claim, either have made it, and their Claims examined by a publick Judicatory, or might have done in so long a space, which they have neglected, and it hath been their own faults.

Therefore this Case touching the burned
Houses being particular, in a particular
Precinct, and thus circumstantiated, will
not make any Parallel Case to Universal
Registers.



FINIS.



[25]

Therefore the said **House** being particular
precinct, and thus **not** make any **Parish**
Registers

and as may be necessary to give a full
and Order for Church to be made in
the said parish, and a full copy of the
same to be made in the said parish
registers, and a full copy of the same
to be made in the said parish registers



F I N I

